

AMENDED IN ASSEMBLY APRIL 30, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 746

Introduced by Assembly Member La Suer
(Coauthor: Assembly Member Strickland)

February 22, 2001

An act to amend Sections 8714 and 8802 of the Family Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

AB 746, as amended, La Suer. Nonresident petitioners: adoption.

(1) Existing law provides that a prospective adoptive parent may file a petition for an agency adoption or an independent adoption of a child in the county in which the petitioner resides.

This bill would further provide that if the petitioner is not a resident of this state, he or she may file a petition for an agency adoption or an independent adoption in the county in which the child ~~resides~~ *was born*, and would require the court to hear the petition within 3 court days of receipt of the request for hearing. The bill would require the court, upon specified conditions, to finalize the adoption at that time. By requiring new duties of the court, the bill would impose a state-mandated local program.

(2) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims*

Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8714 of the Family Code is amended to
2 read:

3 8714. (a) A person desiring to adopt a child may for that
4 purpose file a petition in the county in which the petitioner resides
5 or, if the petitioner is not a resident of this state, in the county in
6 which the child ~~resides~~ *was born*. Where a child has been adjudged
7 to be a dependent of the juvenile court pursuant to Section 300 of
8 the Welfare and Institutions Code, and has thereafter been freed for
9 adoption by the juvenile court, the petition may be filed either in
10 the county where the petitioner resides or in the county where the
11 child was freed for adoption.

12 (b) *If the petitioner is not a resident of this state, as soon as the*
13 *consent or relinquishment of the placing parent or parents*
14 *becomes irrevocable pursuant to either Section 8700 or 8814.5,*
15 *the petitioner may request that the court immediately hear and*
16 *adjudicate the adoption. The court shall hear the matter within*
17 *three court days of receiving the petitioner's request for hearing.*
18 *The petitioner may file the petition for adoption, the consent and*
19 *agreement, the accounting report, and the order of adoption at the*
20 *time of the hearing and, upon a showing of good cause, the court*
21 *shall finalize the adoption at that time.*

22 (c) The court clerk shall immediately notify the department at
23 Sacramento in writing of the pendency of the proceeding and of
24 any subsequent action taken.

25 ~~(e)~~

26 (d) If the petitioner has entered into a postadoption contact
27 agreement with the birth parent as set forth in Section 8714.7, the



1 agreement, signed by the participating parties, shall be attached to
2 and filed with the petition for adoption under subdivision (a).

3 ~~(d)~~

4 (e) The caption of the adoption petition shall contain the names
5 of the petitioners, but not the child's name. The petition shall state
6 the child's sex and date of birth. The name the child had before
7 adoption shall appear in the joinder signed by the licensed
8 adoption agency.

9 ~~(e)~~

10 (f) If the child is the subject of a guardianship petition, the
11 adoption petition shall so state and shall include the caption and
12 docket number or have attached a copy of the letters of the
13 guardianship or temporary guardianship. The petitioners shall
14 notify the court of any petition for guardianship or temporary
15 guardianship filed after the adoption petition. The guardianship
16 proceeding shall be consolidated with the adoption proceeding.

17 ~~(f)~~

18 (g) The order of adoption shall contain the child's adopted
19 name, but not the name the child had before adoption.

20 SEC. 2. Section 8802 of the Family Code is amended to read:

21 8802. (a) (1) Any of the following persons who desire to
22 adopt a child may, for that purpose, file a petition in the county in
23 which the petitioner resides or, if the petitioner is not a resident of
24 this state, in the county in which the child ~~resides~~ *was born*:

25 (A) An adult who is related to the child or the child's half
26 sibling by blood or affinity, including all relatives whose status is
27 preceded by the words "step," "great," "great-great," or
28 "grand," or the spouse of any of these persons, even if the
29 marriage was terminated by death or dissolution.

30 (B) A person named in the will of a deceased parent as an
31 intended adoptive parent where the child has no other parent.

32 (C) A person with whom a child has been placed for adoption.

33 (D) A legal guardian who has been the child's legal guardian
34 for more than one year. However, if the parent nominated the
35 guardian for a purpose other than adoption for a specified time
36 period, or if the guardianship was established pursuant to Section
37 360 of the Welfare and Institutions Code, the guardianship shall
38 have been in existence for not less than three years.

39 (2) If the child has been placed for adoption, a copy of the
40 adoptive placement agreement shall be attached to the petition.

1 The court clerk shall immediately notify the department at
2 Sacramento in writing of the pendency of the proceeding and of
3 any subsequent action taken.

4 (b) The petition shall contain an allegation that the petitioners
5 will file promptly with the department or delegated county
6 adoption agency information required by the department in the
7 investigation of the proposed adoption. The omission of the
8 allegation from a petition does not affect the jurisdiction of the
9 court to proceed or the validity of an adoption order or other order
10 based on the petition.

11 (c) The caption of the adoption petition shall contain the names
12 of the petitioners, but not the child's name. The petition shall state
13 the child's sex and date of birth and the name the child had before
14 adoption.

15 (d) If the child is the subject of a guardianship petition, the
16 adoption petition shall so state and shall include the caption and
17 docket number or have attached a copy of the letters of the
18 guardianship or temporary guardianship. The petitioners shall
19 notify the court of any petition for guardianship or temporary
20 guardianship filed after the adoption petition. The guardianship
21 proceeding shall be consolidated with the adoption proceeding.

22 (e) The order of adoption shall contain the child's adopted
23 name, but not the name the child had before adoption.

24 (f) This section shall become operative on January 1, 1995.

25 *SEC. 3. Notwithstanding Section 17610 of the Government*
26 *Code, if the Commission on State Mandates determines that this*
27 *act contains costs mandated by the state, reimbursement to local*
28 *agencies and school districts for those costs shall be made*
29 *pursuant to Part 7 (commencing with Section 17500) of Division*
30 *4 of Title 2 of the Government Code. If the statewide cost of the*
31 *claim for reimbursement does not exceed one million dollars*
32 *(\$1,000,000), reimbursement shall be made from the State*
33 *Mandates Claims Fund.*

